In a recent case, *Clark* v. *Brown* (Tex. 1908) 108 S. W. 421, consequences following the merger of the Cumberland Presbyterian Church with the general Presbyterian Church required a discussion of the principles involved in the determination of rights in church property. The refusal of a part of the superior body to concur in the merger resulted in a schism in a local church, whose property was held in trust for the use of the Cumberland Church. The court decreed the use thereof to the minority, which adhered to the old creed. The grounds of the decision were the lack of constitutional authority in the superior body to merge, and a material change in creed. The opposite result was reached in *Mack* v. *Kime* (Ga. 1907) 58 S. E. 184. The court, in the latter case, construed the authority of the superior body differently, and considered the act of merger an implied adjudication that no material change was made in creed. Assuming the premise, the decision was sound; but the assumption seems unfounded. In both cases the property was originally purchased and deeded to trustees for the use of the church by name. The court, in the principal case, implied a strict limitation of creed. The Georgia court, more liberally construing the purposes of the trust, reached in this respect a result more practical and, it would seem, more progressive. As a matter of policy, courts should be slow to restrict the freedom of a church to change its religious views at the expense of the loss of its property, unless the trust be clearly limited.

AMENDMENT OF BY-LAWS IN MUTUAL BENEFIT ASSOCIATIONS.—The contract between a mutual benefit society and a member is one of insurance. *Commonwealth* v. *Wetherbee* (1870) 105 Mass. 149, but differs from the ordinary insurance policy in that the by-laws form a part thereof. *Barbot* v. *The Mutual Association* (1897) 100 Ga. 681. The member is both insurer and insured. *Bragaw* v. *Supreme Lodge* (1901) 128 N. C. 354. How far under the power of amendment, usually reserved in the by-laws, the society may alter the member's contract is a subject of conflicting opinion. The injustice of permitting the society to amend without limitation has led to the adoption of various rules, many of doubtful validity. The denial of power to destroy the member's contract is clearly justifiable, for, obviously, it was not his intention to confer that privilege. *Weiler* v. *Equitable Aid Union* (N. Y. 1895) 92 Hun 280. Some courts hold that the contract cannot be altered unless the member has expressly agreed to comply with future by-laws. *Peterson* v. *Gibson* (1901) 191 Ill. 365. To distinguish between an express and an implied agreement appears illogical. 4 COLUMBIA LAW REVIEW 229. The doctrine is sometimes advanced that the face value of a member's certificate cannot be reduced, on the ground that he agreed only to a change in the by-laws and not to the avoidance of an express obligation independent of the by-laws. *Hale* v. *Equitable Aid Union* (1895) 168 Pa. St. 377; *Newhall* v. *American Legion of Honor* (1902) 181 Mass. 111. The power to amend, however, includes the power to enact new by-laws. If the new by-law affects an express term of the certificate it should not, for that reason alone, be invalid. The argument that he must have expected to receive the express amount of his certificate would apply equally

to the amount of sick benefits provided in the by-laws. These, however, may generally be altered. *Stohr* v. *Musical Fund Society* (1890) 82 Cal. 557. Another theory maintains that the member agrees only to such changes as affect his duties as insurer and not to such as affect his rights as insured, *Morton* v. *Supreme Council* (1903) 100 Mo. App. 76, unless the power to make the specific change has been reserved. Cf. *Ayers* v. *Order of United Workmen* (1907) 188 N. Y. 280. This appears to be the New York and Massachusetts view, *Weber* v. *Knights of Maccabees* (1902) 172 N. Y. 490; *Ayers* v. *Order of United Workmen, supra; Reynolds* v. *Royal Arcanum* (1906) 192 Mass. 150, but the courts are inconsistent in its application. Thus an increase in assessments is upheld. *Mock* v. *Royal Arcanum* (1907) 106 N. Y. Supp. 155; *Reynolds* v. *Royal Arcanum, supra.* The assessments, the consideration to be paid for the benefits, are as plainly a term of the contract as the benefits themselves. Logically this theory would confine the society to changes in the mere administration of its business; yet courts quite generally hold valid by-laws increasing assessments, *Fullenwider* v. *Royal League* (1899) 180 Ill. 621, or reducing the amount of sick benefits, *Stohr v. Musical Fund Society, supra,* or forbidding members to engage in certain occupations, *Loeffler* v. *Modern Woodmen of America* (1898) 100 Wis. 79, and usually by-laws avoiding liability in case of involuntary suicide. *Supreme Tent* v. *Stensland* (1902) 105 Ill. App. 267; contra, *Sautter* v. *Supreme Conclave I. O. H.* (1906) 72 N. J. L. 225. Any logical limitation of the power of amendment must be based upon the intention of the insured. That he intends to be bound by reasonable amendments only, seems a justifiable interpretation. *Thibert* v. *Supreme Lodge* (1899) 78 Minn. 448. In determining the reasonableness of an amendment, the nature and needs of a benefit society should govern. Mutuality is its primary feature. The member's duties as insurer and his rights as insured must be balanced in order to reach a just conclusion. *Hall* v. *Western etc. Ass'n* (1903) 69 Neb. 601. Conceding that the courts generally regard the member's relation as insurer as something totally distinct from its relation as insured, *Supreme Council* v. *Jordan* (1903) 117 Ga. 808, the needs of the association must still be considered in determining the validity of a by-law. It is submitted, therefore, that the insured has no absolute right to have any term of his contract remain unchanged. *Stohr* v. *Musical Fund Society, supra.* An amendment of the face value of the certificate should be valid if necessary for the perpetuation of the society. This change, however, seems never to have been allowed. *Gaut* v. *American Legion of Honor* (1901) 107 Tenn. 603. With this exception, whatever may be their express reasoning, authorities generally uphold changes necessary or desirable for the society's welfare, *Supreme Commandery* v. *Ainsworth* (1882) 71 Ala. 436, when not obviously unjust to the members, see *Wuerfler* v. *Trustees etc. Order of Druids* (1902) 116 Wis. 19; *Wist* v. *The Grand Lodge* (1892) 22 Ore. 271. Conflicting decisions merely show diverse views of a reasonable change.

Where the contingency has happened upon which the liability of the society to the beneficiary depends, no subsequent by-law can affect the debt already accrued. If benefits are payable at stated intervals, since the right

to each payment accrues only as it falls due, it would seem that future payments should be still subject to reduction if required by the needs of the society, whether the benefits are payable to the insured himself, for example, sick benefits, or to a third person. *Fugare* v. *Mutual Society of St. Joseph* (1874) 47 Vt. 362. The courts are inclined, however, to hold that where sick benefits are payable for the entire time of illness, or where death benefits are payable for the entire life of the beneficiary, a right to the series becomes vested when the member falls sick or dies. *Becker* v. *Berlin etc. Society* (1891) 144 Pa. St. 232; *Wiedynski* v. *Polish etc. Society* (N. Y. 1906) 110 App. Div. 732; *Gundlach* v. *Germania Mechanics' Ass'n* (N. Y. 1875) 4 Hun 339; contra, *Pain* v. *Societé St. Jean Baptiste* (1899) 172 Mass. 319; *Poultney* v. *Bachman* (N. Y. 1883) 31 Hun 49; *Fugare* v. *Mutual Society of St. Joseph, supra.* In a recent New York case the certificate of incorporation of a benefit society provided for such sick benefits as the by-laws might from time to time prescribe. The by-laws called for payments for the entire time of illness. A reduction after the plaintiff fell ill was held reasonable in view of the depleted condition of the benefit fund. *Lewin* v. *Koerner Benevolent Ass'n* (1908) 109 N. Y. Supp. 101. The court used the proper method in determining the validity of the amendment, in accordance with the views expressed above. Though the Court of Appeals has never passed upon the validity of a by-law reducing sick benefits, it is doubtful, in view of its tendency to restrict the power of amendment, whether the case would be sustained on appeal. See *Evans* v. *Masonic Relief Ass'n* (1905) 182 N. Y. 453, and dictum in *Parish* v. *New York Produce Exchange* (1901) 169 N. Y. 34, 46.

INTERFERENCE WITH CONTRACTUAL RELATIONS.—It has been doubted whether any action lies for inducing a breach of contract unless unlawful means have been used, *Boyson* v. *Thorn* (1893) 98 Cal. 578, or unless the relation of master and servant existed. *Chambers* v. *Baldwin* (1891) 91 Ky. 121. While in some cases in which the rule has been broadly stated, other elements were present, *Temperton* v. *Russell* [1893] 1 Q. B. 715 (coercion); *Angle* v. *Rwy.* (1894) 151 U. S. 1 (fraud); *Walker* v. *Cronin* (1871) 107 Mass. 555, it must be admitted that in England, and in many jurisdictions in this country, the procurement of a breach by lawful means is actionable, if without justification, *South Wales etc.* v. *Glamorgan Coal Co.* [1905] A. C. 239; *Bitterman* v. *Louisville etc. R. R. Co.* (1907) 207 U. S. 205; see VIII COLUMBIA LAW REVIEW 225, irrespective of the special relation of master and servant. *Bowen* v. *Hall* (1881) L. R. 6 Q. B. D. 333; *Jones* v. *Stanley* (1877) 76 N. C. 355. Though still rejected in some jurisdictions, *Ashley* v. *Dixon* (1872) 48 N. Y. 430; *Boyson* v. *Thorn, supra,* the English rule is gaining increased recognition. *Beekman* v. *Marsters* (Mass. 1907) 80 N. E. 817; *Flaccus* v. *Smith* (1901) 199 Pa. St. 128; *Thacker Coal Co.* v. *Burke* (1906) 59 W. Va. 253. The courts generally proceed upon the ground that to induce the commission of a legal wrong is a tort. Lord Watson in *Allen* v. *Flood* [1898] A. C. 1, 96. But the action seems only an application of the broader theory that a cause of action exists "whenever one person" damages "another wilfully and intentionally, and